



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,064	01/06/2005	Paul Hoyes	58323-307440	2112

25764 7590 06/21/2006

FAEGRE & BENSON LLP  
PATENT DOCKETING  
2200 WELLS FARGO CENTER  
MINNEAPOLIS, MN 55402

EXAMINER
----------

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/502,064		HOYES, PAUL	
	<b>Examiner</b>		<b>Art Unit</b>	
	David J. Parsley		3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### *Amendment*

1. This office action is in response to applicant's amendment dated 4-28-06 and this action is final.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 4,208,828 to Hall et al. in view of U.S. Patent No. 5,454,186 to Gang.

Referring to claim 1, Hall et al. discloses an insect monitor comprising, a base – at 11, a lid – at 22, hinged at one edge to the base – see figure 4, in which the lid can be displaced between an open position – see figure 4, and a closed position – see figure 2, and an insect attracting sheet – at 20,21, and in which the lid includes at least one lifting member – at 23, which can engage the insect attracting sheet while the lid is moved between its open and closed positions so that the distance between the sheet is greater when the lid is in the open position than when its in the closed position – see for example figures 2 and 4. Hall et al. further discloses

Art Unit: 3643

in which an aperture – at 12 or 17 or 18, is defined between the base – at 11 and lid – at 22 when the lid is in the closed position – see for example figures 1-2. Hall et al. does not disclose the aperture extends substantially around periphery of the base and lid. Gang does disclose the aperture – between items 3,4,6 as seen in figure 3, extends substantially around the periphery of the base and lid – at 3,4,6 – see figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hall et al. and add the aperture extending around the periphery of the base and lid of Gang, so as to allow for more insects to be allowed to enter the device at one time to increase the effectiveness of the device.

Referring to claim 2, Hall et al. as modified by Gang further discloses the base – at 11, includes a side wall – see the walls of the enclosure – at 11 in figure 1, having internal and external surfaces which define the space in which the insect attracting sheet – at 21,22, is received – see for example figures 1-4 of Hall et al.

Referring to claim 3, Hall et al. as modified by Gang further discloses the side wall has a gap – see the open front covered by the lid 22 as seen in figures 2-4, in it which is located so that the lifting member – at 23, can move through the gap as the lid – at 22, is moved between its open and closed positions – see for example figures 2-4 of Hall et al. where the lifting member is capable of moving through the front opening when the lid – at 22 is moved to its lowermost open position where it is even with the bottom of the base as seen in figure 3 of Hall et al.

Referring to claim 6, Hall et al. as modified by Gang further discloses the external surface of the wall of the base slopes upwardly – see at 14 and 15 in figures 1-2 of Hall et al.

Referring to claim 7, Hall et al. as modified by Gang further discloses the internal surface of the wall of the base – at 11, is substantially vertical – see the vertical sidewalls of item 11 in figures 1-2 of Hall et al.

Referring to claim 8, Hall et al. as modified by Gang further discloses at least two projecting members – at the clip and screws which mount the clip to the lid as seen in figures 2 and 4 of Hall et al., extend from the lid – at 22 – see figures 2 and 4 of Hall et al., the at least two projecting being adapted to cooperate with the at least one lifting member – at 23, to support the insect attracting sheet – at 20,21, as the lid is moved to the open position – see for example figures 2-4 of Hall et al. where in figure 3 the sheet – at 20,21, is pulled from the base – at 11, and the clip on the lid – at 22, is capable of supporting the sheet – at 20,21 when the sheet is pulled over the clip.

Referring to claim 9, Hall et al. as modified by Gang further discloses the side wall is provided with at least one clip – see the projection on the upper wall of the base – at 11, which engages the clip member of the lid – at 22 as seen in figure 2 of Hall et al.

### ***Response to Arguments***

3. Regarding claim 1, the Hall et al. reference US 4208828 discloses the an insect trap/monitor as claimed except for the limitation of an aperture extending around the periphery of the base of the device. The Gang reference US 5454186 does disclose an insect trap/monitor that has an aperture extending around the periphery of the base of the device as seen in figure 3. Applicant argues that there is no motivation to combine these references and that the

Art Unit: 3643

combination of these references since the device of Hall et al. would not perform as intended if it had the aperture around the periphery of the device of Gang. It is deemed that the combination of these references is proper given the motivation to combine the references set forth above in paragraph 2 of this office action. Both the Hall et al. and Gang references have similar structure and function in that each comprises a roach trap which lures roaches to the interior of the device where the roaches are caught on an adhesive substance. The roaches in the Hall et al. reference have material – at 14-18, which the roach contacts prior to reaching the adhesive substance – at 20,21, as seen in figures 1-3, and the Gang reference also has material – at 3, which the roach contacts prior to reaching the adhesive substance – at 2 as seen in figures 2-3. Therefore given the similar structure and function of the devices of the Hall et al. and Gang references the motivation of these references is deemed proper.

Regarding the arguments to claim 10, this claim appears to be canceled as seen in applicant's latest response dated 4-28-06 and therefore any arguments regarding this claim are moot.

### *Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 3643

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

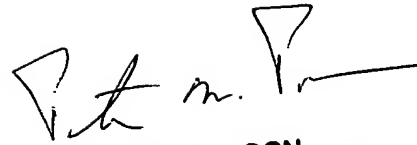
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/502,064  
Art Unit: 3643

Page 7



David Parsley  
Patent Examiner  
Art Unit 3643



PETER M. POON  
SUPERVISORY PATENT EXAMINER

6/16/06